UNITED STATES DISTRICT COURT
DISTRICT OF PUERTO RICO

In re: THE FINANCIAL OVERSIGHT AND MANAGEMENT BOARD FOR PUERTO RICO, as representative of THE COMMONWEALTH OF PUERTO RICO, *et al.*, Debtors.	PROMESA Title III No. 17 BK 3283-LTS (Jointly Administered)
In re: THE FINANCIAL OVERSIGHT AND MANAGEMENT BOARD FOR PUERTO RICO, as representative of PUERTO RICO SALES TAX FINANCING CORPORATION, Debtor.	PROMESA Title III No. 17 BK 3284-LTS

JOINDER BY AND SUPPLEMENT OF THE GMS GROUP, LLC TO SUPPLEMENTAL OBJECTION OF INDIVIDUAL COFINA SUBORDINATE BONDHOLDER RESIDING IN THE 50 STATES WHO PURCHASED AT THE ORIGINAL OFFERING PRICES, TO CONFIRMATION OF PUERTO RICO SALES TAX FINANCING CORPORATION ("COFINA") PLAN, AND RESPONSE AND OPPOSITION TO COFINA'S THIRTEENTH OMNIBUS OBJECTION TO INDIVIDUAL CLAIM NO. 10701

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Attorneys for The GMS Group, LLC

Dated: January 2, 2019

The GMS Group, LLC ("GMS" or "Secured Creditor"), respectfully shows the Court as follows:

1. On December 21, GMS filed an "Amended Objection Of The GMS Group, LLC To Second Amended Title III Plan Of Adjustment Of Puerto Rico Sales Tax Financing Corporation And Request For Evidentiary Hearing" with supporting exhibits (the "GMS Objection"). *See, Docket 4564*.

2. On December 28, 2018, Peter C. Hein filed the "Objection Of Individual Cofina Subordinate Bondholder Residing In The 50 States Who Purchased At The Original Offering Prices, To Confirmation Of Puerto Rico Sales Tax Financing Corporation ("Cofina") Plan, And Response And Opposition To Cofina's Thirteenth Omnibus Objection To Individual Claim No. 10701" (the "Hein Objection"). *See, Docket 4585*.

3. On December 31, 2018, GMS filed a joinder (the "GMS Joinder") to the Hein Objection. *See, Docket 4587*.

4. On December 31, 2018, Hein transmitted by FedEx a supplement to the Hein Objection (the "Hein Supplement"), which GMS is advised is expected to be uploaded to the Court's electronic docket by January 2, 2019. Hein provided a copy of the Hein Supplement to

GMS on December 31, 2018. A true and correct copy of the Hein Supplement provided by Hein to GMS is attached hereto as Exhibit 1. *See*, *Docket 4595.*

5. In addition to, and without waiver or derogation of, the GMS Objection and the GMS Joinder, GMS hereby joins in and adopts the Hein Supplement and intends to raise the points, arguments and authorities contained therein at the hearing to consider confirmation of the Plan and objections thereto.

6. In addition, based on consideration of the Hein Objection, the Hein Supplement and recent events, GMS hereby supplements the GMS Objection and GMS Joinder as follows.

7. GMS has had discussions with other bondholders who are individuals, some of whom have provided information and analysis that merits consideration by the Court.

Inaccurate Recovery Rates

8. The Plan states, "Class 5 – Junior Cofina Bond holders. … Projected Recovery under the Plant of Adjustment – No Taxable Election: 56.4%." To the extent media may have published this recovery rate, Junior Cofina Bond holders may be relying on that information.

9. The provisions of the Plan suggest that there is one set of (nontaxable) replacement bonds for all Junior Cofina bonds. The average interest rate for the (nontaxable) set of replacement bonds appears to be 4.85% with an average life span of 28.2 years according to part 18 of the Plan of Adjustment. According to the Plan of Adjustment and its Table 2B, $50,000 of original Junior Cofina Bonds will be replaced with the face amount of $28,112 of replacement bonds (purportedly about 56.4% of the original principal).

10. However, the actual recovery rate also depends on the interest rate and maturity date of the original bonds, and this varies. The Plan of Adjustment states that the original Junior Cofina bonds had fixed interest rates in the range of 3.63% to 7.48% (depending in part on the

maturity date). For those original Junior Cofina bonds with a greater interest rate than 4.85%, the actual recovery rate will be reduced to less than 56.4% because of the reduction in the interest rate of the replacement bonds. The original Junior Cofina bonds with the lower interest rates than 4.85% may have had shorter terms, and the increased interest rates of the replacement bonds will likely be offset by the longer, 28.2-year maturity of the replacement bonds.

11. The following is a real example for original Junior Cofina bond CUSIP 74529JKM6 which has a 5.5% interest rate and 08/01/2041 maturity date (i.e. about 22 1/2 years remaining). The first step in the Plan of Adjustment is to replace $50,000 of CUSIP 74529JKM6 with $28,112 of the nontaxable 4.85% replacement bonds due in 28.2 years on average. That reduces the principal to 56.4% of the original principal. But, the replacement bonds have a significantly lower interest rate and longer average maturity date than CUSIP 74529JKM6 which further reduces the actual recovery rate of the replacement bonds. Thus, the purported recovery rate of 56.4% is misleading because the actual recovery rate varies substantially based on the interest rate and maturity date of each original Junior Cofina bond.

12. The Plan of Adjustment also states, "Estimated Percentage Recovery – No Taxable Election: 93.015%." (The media also published this recovery rate so presumably the voters are relying on it.)

13. Also, it does not appear that the unpaid interest due on August 1, 2017 and February 1, 2018 was included in the calculation of the stated 56.4% recovery for the nontaxable Junior Cofina bonds. It also does not appear that any of this interest will ever be paid to the Junior Cofina bond holders who receive nontaxable replacement bonds. If this unpaid interest was not included in the 56.4% recovery calculation for the Junior Cofina bonds and will never be

paid, this will further reduce the recovery rate for the Junior Cofina bond holders who receive the nontaxable replacement bonds.

14. Also, the interest due on August 1, 2018 was not paid to the Junior Cofina bond holders. Instead, the replacement bonds under the Plan of Adjustment will begin to accrue or accrete interest on July 1, 2018. So apparently under the Plan of Adjustment, the Junior Cofina bond holders who receive the nontaxable replacement bonds will lose 5 months of interest from February 1, 2018 until July 1, 2018. This represents an additional decrease in recovery rate for the Junior Cofina bond holders who receive the nontaxable replacement Cofina bonds. This additional reduction was not included in the calculation of the stated 56.4% recovery.

15. This could have the effect of reducing the recovery below that for Commonwealth general obligation bonds. That could materially affect voting.

16. This has the capacity to distort voting on the Plan. For that reason, the Plan cannot and should not be confirmed. Given how fundamentally erroneous the projected recoveries are, that should warrant this Court denying confirmation on the Plan until a revised disclosure statement is approved. It would be imprudent for this Court simply to rely on the previous approval of the Disclosure Statement in light of these realities regarding discovery, and the Court thus has ample authority under FRBP 9024 (which makes FRCP 60 applicable to these cases) to amend the prior order approving the Disclosure Statement to require that updated disclosures and solicitations based on accurate analysis of the recovery occur.

Equal Protection Violations / Unfair Discrimination

17. By way of supplement to the points in the GMS Objection, GMS Joinder, Hein Objection and Hein Supplement regarding how the Plan violates the equal protection clauses of the constitution, the following merits the Court's consideration.

18. The Plan provides for Puerto Rico residents to receive more valuable consideration than non-residents in that: (1) cash is paid currently to residents, while Junior Cofina Bond holders in the 50 states receive no cash; the net effect is that Puerto Rico residents receive the five months of interest being denied to other holders as described above; (2) the residents' 2040 coupon (22 year maturity) is clearly more valuable than the 2051 zero coupon bond or 2058 (40 year) coupon bond. This reinforces the disparity of treatment between Puerto Rico residents and other holders, which violates the equal protection clauses of the constitution, federal statutory law cited in the Hein Objection and Hein Supplement that binds Puerto Rico not to discriminate against non-residents and the bans on unfair discrimination under PROMESA.

Unfair Denial of Due Process

19. On December 31, 2018, after 4:00 pm Puerto Rico time, the Commonwealth and COFINA filed a notice of plan supplement (see Docket No. 401 in the COFINA case). The document is 322 pages long and contains documents material to evaluation of whether to vote to accept or reject the Plan.

20. The fact that these are not being provided until two days before the objection deadline deprives anyone who has to object by the January 2, 2019 of any meaningful opportunity to review the various indentures and see if they are objectionable or not. This seems to be another calculated instance of disenfranchisement of bondholders.

21. For these additional reasons, confirmation of the Plan should be denied.

Dated: New York, New York

January 2, 2019

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